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State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

July 11, 2018

Michael S. and Linda H. Behling
P.O. Box 630164
Rockville, Utah 84763

SUBJECT: PRIORITY CALL DATED JULY 7, 2014, ON THE VIRGIN RIVER – WATER USER'S LETTER DESCRIBING AFFECTS ON WATER RIGHT 81-3054, DATED JUNE 5, 2018

Dear Water Users:

We appreciate your concerns detailed in your letter dated June 5, 2018, and received in our Salt Lake City Office on June 14, 2018. The division staff also appreciates your time spent during our site visit to your property and diversion to understand your situation in more detail.

From our records and the description of your concerns, we have assumed the letter pertains to water right No. 81-3054. During the site visit you indicated that you had shares in the Grafton system that you are currently servicing your property with. You also indicated you have respected the priority call and have not exercised your river pump when the priority call conditions are in place. We appreciate your compliance with the priority call.

As you requested we researched water right No. 81-3054 back to its origin. It appears you segregated this water right from water right No. 81-89 on June 30, 1987.

The State Engineer originally certificated water right No. 81-89 on November 25, 1925 under certificate No. 1429. The appropriation application number is A8907, which a Mr. Oscar DeMill originally applied for on September 2, 1921. Thus, the priority date for water rights Nos. 81-89 and 81-3054 is this same date. The State Engineer also had water right No. 81-89 adjudicated in the Virgin River Decree under award No. 73. Regrettably, this means the State Engineer's priority call letter dated July 7, 2014 applies to these same two water rights.

Also in the June 5, 2018 letter, you asked a question as to if and when the State Engineer will lift the priority call on the Virgin River Distribution System. Currently, the priority call is in place, and the Water Commissioner for the Virgin River system (Commissioner) is regulating the water during the present priority regulation conditions. Unfortunately, last winter did not yield snowfall in the mountains necessary to provide all water users with water. Therefore, the

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Subject: Priority Call Status, Virgin River

Commissioner, being given authority by the Priority Call Letter, dated July 7, 2014, has determine water rights junior in priority to the year 1900 will need to shut off to allow senior water right needs downstream to be met. Unless substantial precipitation occurs in the higher elevations, the Commissioner will regulate water take-outs on the Virgin River under these restrictions.

During the site visit the Water Commissioner Dave Jessop took your phone number and will put you on the call list for when the priority call conditions exist (where you can't take water). In addition, he will contact you when he has lifted the priority call conditions, and you can take water.

At present, the priority call remains in place; therefore, pumping from the Virgin River is not allowed unless you received a "go ahead" call from the water commissioner.

If you have additional questions, or you would like to discuss in person your situation, please call me at (801) 538-7430.

Sincerely,

A handwritten signature in black ink that reads "Mike Silva". The signature is written in a cursive, flowing style.

Mike Silva
Distribution Engineer.

Enclosure: Water User's Letter

cc: SW Regional office, Cedar City
David L. Jessop, Virgin River Water Commissioner (w/encl.)

June 5, 2018

Kent Jones, PE
State of Utah
Department of Natural Resources
Box 146300
Salt Lake City, UT 84114-6300

RE: Virgin River- Request for Review

Dear Mr. Jones,

Its approaching four (4) years relating to prohibitions for Virgin River water users. I haven't heard anything on status relating to prohibitions in the letter dated July 7, 2014. In reviewing that document I had the impression that 1900 was an arbitrary starting point and figured it would be flexible based on changes over time and its nearly four years later. I have been watching water levels on Sand Hollow and Quail Creek Reservoirs ever since 2014 and find them full and good stream going into Lake Mead. In the Horse Valley basin the precipitation has been above normal from 2014-17. My water right of 17 acre feet is near the 1900 cutoff date. What confuses me is out of thousands or tens of thousands of acre feet covered by the letter, how can my 17 acre feet have any impact?

I wanted to put a human face on the impact this has had on my family and farm. My right may have been different because it contained a culinary portion. I chose to use river water because it was better quality than area well water. I must haul my drinking water to exist. The rest of the water watered fields near the house. Its easy to imagine the impact of loss of water on vegetation. No water it dies. Without culinary water my home is not saleable. We are hurting severely.

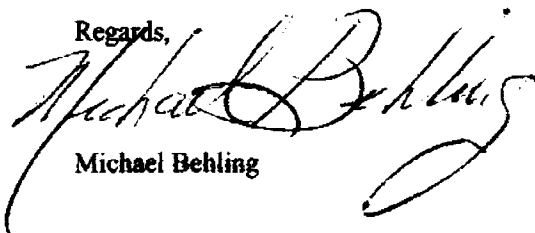
My water source is the springs from Horse Valley Wash commingled with the Virgin. For many years my diversion was on that creek on a neighbors property where I had permission to set up the diversion and gain State approval. I was forced to take the water from the Virgin because another neighbor was stealing the water and would not let me on the property to maintain the system at the point of a gun. I then changed my permit with the State to divert the water by pump from the Virgin River away from that property.

My family (Lees, Stouts and Bliss) were founding fathers of this area and I was surprised that the 2014 document listed the right at 1921. This water had been under beneficial use since 1880s.

So what am I requesting. A review to see if I can use all or part of this water.

Should you have questions I can be reached at (435) 772-5603. My mailing address is Box 630164 Rockville, Utah 84763.

Regards,



Michael Behling

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JUN 14 2018
WATER RIGHTS
SALT LAKE